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452.01 Introduction

This chapter includes information and requirements for transportation projects in and near coastal zones and shorelines, where a project could add pollutants to waters, increase sedimentation in runoff, harm endangered species habitat, or affect slope stability, coastal currents, or littoral transport of sediment. See related information in [Chapter 431](#) (Water Quality), [Chapter 432](#) (Floodplain), [Chapter 436](#) (Wildlife, Fish, and Vegetation), and [Chapter 437](#) (Wetlands).

(1) **Summary of Requirements**

Shoreline areas are protected under the State Shoreline Management Act (SMA) and local Shoreline Master Programs (SMP). In areas under federal jurisdiction such as harbors and coastal zones, federal Coastal Zone Management Act (CZMA) regulations apply. In most local jurisdictions, a Joint Aquatic Resources Application (JARPA) form and/or a SEPA checklist provide the basis for identifying shoreline and coastal zone issues and sources of information.

(2) **Abbreviations and Acronyms**

Abbreviations and acronyms used in this chapter are listed below. Others are found in the general list in [Appendix A](#).

CBRA	Coastal Barrier Resources Act
CZMA	Coastal Zone Management Act
NOAA	National Oceanic and Atmospheric Administration
OHWM	Ordinary High Water Mark or Line
SMA	Shoreline Management Act
SMP	Shoreline Management Program

(3) **Glossary**

See [Appendix B](#) for a general glossary of terms used in the EPM.

Enforceable Policies – Under the CZMA, legally binding policies (such as constitutional provisions, laws, regulations, land use plans, ordinances, or

* Web sites and navigation referenced in this chapter are subject to change. For the most current links, please refer to the online version of the EPM, available through the ESO home page: <http://www.wsdot.wa.gov/environment/>

judicial or administrative decisions) by which a state exerts control over private and public land and water uses and natural resources in the coastal zone.

Shorelines – Land within 200 feet of the ordinary high water mark of waters of the state, including marine waters, rivers, streams, lakes, and reservoirs, and their associated wetlands, floodways, deltas, and floodplains. The Shoreline Management Act (RCW 90.58.030 (2d)) excludes streams with a mean annual flow of 20 cfs or less and lakes smaller than 20 acres (including adjacent wetlands).

Shorelines of Statewide Significance – Shorelines for which there is special interest in preserving the natural characteristics and encouraging and increasing public access.

Substantial Development – Any development of which the total cost, or fair market value, exceeds \$2,500.00, or any development that materially interferes with normal public use of the water or shorelines of the state.

452.02 Applicable Statutes and Regulations

This section lists the primary statutes and regulations applicable to coast and shorelines issues. See [Appendix D](#) for a list of statutes referenced in the EPM. Permits and approvals required pursuant to these statutes are listed in [Section 452.06](#).

(1) Federal

(a) National Environmental Policy Act

The National Environmental Policy Act (NEPA), 42 USC Section 4321, requires that all major actions sponsored, funded, permitted, or approved by federal agencies undergo planning to ensure that environmental considerations such as impacts on coastal and shoreline areas and resources, and uses thereof, are given due weight in decision-making. Federal implementing regulations are at 23 CFR 771 (FHWA) and 40 CFR 1500-1508 (CEQ). For details on NEPA procedures, see **Chapter 410** and **Chapter 411**.

(b) Clean Water Act

The Water Pollution Control Act (33 USC Section 1251 *et seq.*), better known as the Clean Water Act (CWA), provides for comprehensive federal regulation of all sources of water pollution, including fill or discharges in shoreline waters or wetlands within shorelines of the state. Refer to [Section 431.02](#) for more information.

(c) Rivers and Harbors Act

Section 10 of the Rivers and Harbors Act, 33 USC 410 *et seq.* requires authorization from the U.S. Army Corps of Engineers (Corps) for construction of any structure in or over any navigable water of the United States, the excavation/ dredging or deposition of material in these waters or any obstruction or alteration in a navigable water. A Section 10 permit is required for a structure or work outside the limits defined for navigable waters if it affects the course, location, condition, or capacity of the water body. For information on Section 10 permits, see [Section 520.03](#). Section

9 of the Act requires USCG approval for any bridge over navigable waters; see [Section 520.04](#).

(d) Coastal Barrier Resources Act

The Coastal Barrier Resources Act (CBRA) establishes certain coastal areas to be protected by prohibiting the expenditure of federal funds for new and expanded facilities within designated coastal barrier units. There are no coastal barrier units in Washington.

(e) Coastal Zone Management Act (CZMA)

Congress established the Coastal Zone Management Act (16 USC 1452 *et seq.*) in 1972 in order to:

- Preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations.
- Encourage and assist the states to develop Coastal Zone Management Programs (CZMPs) that provide for the protection of natural resources and the management of coastal development.
- Encourage the preparation of special area management plans which provide for increased specificity in protecting significant natural resources, reasonable coastal-dependent economic growth, and improved protection of life and property in hazardous areas.

Implementing regulations are at 15 CFR 923-930.

Washington's Coastal Zone Management Program has been approved by the National Oceanic and Atmospheric Administration and is administered by the state Department of Ecology (Ecology). The CZM Program applies to all activities within Washington's 15 coastal counties. Ecology oversees most activities except agriculture and activities related to single-family homes. USEPA approves activities on tribal or federal land.

Under the CZMA, "enforceable policies" means legally binding policies (such as constitutional provisions, laws, regulations, land use plans, ordinances, or judicial or administrative decisions) by which a state exerts control over private and public land and water uses and natural resources in the coastal zone. In Washington, the primary enforceable policies of the CZMA are SEPA, SMA, state Clean Water Act, Clean Air Act, and implementing regulations. Procedures for certifying consistency with these policies are described in [Section 540.03](#).

Under the program, cities and counties can develop local management plans that must be approved by Ecology. Ecology gives program overview and support, and local advisory councils offer suggestions to city and county governments. The CZMA is on-line at:

 <http://www4.law.cornell.edu/uscode/>

Click on Title 16, Chapter 33.

Or by direct link:

(2) State and Local

(a) State Environmental Policy Act

The State Environmental Policy Act (SEPA), requires that all major actions sponsored, funded, permitted, or approved by state and/or local agencies undergo planning to ensure environmental considerations such as impacts on coastal and shoreline areas and resources, and uses thereof, are given due weight in decision-making. State implementing regulations are in WAC 197-11 and WAC 468-12 (WSDOT). For details on SEPA procedures, see **Chapter 410** and **Chapter 411**.

(b) Shoreline Management Act (SMA)

Washington's Shoreline Management Act (RCW 90.58), was passed by the Legislature in 1971 and adopted by the public in a 1972 referendum. The SMA's goal is "to prevent the inherent harm in an uncoordinated and piecemeal development of the state's shorelines."

Ecology's adoption of new shoreline master program (SMP) guidelines in 2003 initiated a new generation of shoreline planning in Washington (Chapter 173-26 WAC). The guidelines were developed as part of a year-long negotiated settlement that also led to adoption of shoreline legislation (effective July 2003) that established a new schedule for updating local government Shoreline Master Programs. They are accessible online at Ecology's web site:

 <http://www.ecy.wa.gov/programs/sea/sma/guidelines/index.html>

The new guidelines set a high level of environmental protection but do not specifically direct a local government how to achieve this result. This allows local flexibility, but does not relieve the need for the administration of the master program to meet prescribed performance standards. This approach was designed to provide maximum flexibility to local governments while concurrently requiring specific standards from the state to protect essential ecological functions of the shoreline resources.

 <http://www.ecy.wa.gov/>

For the WAC, click on Publications/Forms, then under Environmental Laws and Rules, click on Index of Rules, then Chapter 173-26 (under Shorelands and Environmental Assistance). For guidelines and other references, click on Programs (on Ecology's home page), then Shorelands and Environmental Assistance.

Or by direct link for WAC 173-26:

 <http://www.ecy.wa.gov/biblio/wac17326.html>

Or by direct link for guidelines and references:

 <http://www.ecy.wa.gov/programs/sea/shorelan.html>

The Act establishes a broad policy giving preference to uses that:

- Protect the quality of water and the natural environment.
- Depend on proximity to the shoreline (“water-dependent” and “water related” uses).
- Preserve and enhance public access or increase recreational opportunities for the public along shorelines.

The SMA uses a combination of policies, comprehensive planning, and zoning to create, in effect, a special zoning code overlay for shorelines. Under the SMA, each city and county is required to adopt a shoreline master program that is based on state guidelines but tailored to the specific geographic, economic, and environmental needs of the community. Master programs provide policies and regulations addressing shoreline use and protection as well as a permit system for administering the program.

Since shoreline management is a state-legislated activity, WSDOT is subject to these local programs. Decisions regarding approval of shoreline programs may be appealed to the Shoreline Hearings Boards.

The SMA applies to:

- All marine waters.
- Streams with a mean annual flow greater than 20 cubic feet per second.
- Lakes 20 acres or larger.
- Upland areas, called “shorelands,” 200 feet landward from the ordinary high water mark (OHWM) of these waters.
- The following areas when they are associated with one of the above:
 1. Biological wetlands and river deltas
 2. Some or all of the 100-year floodplain including all wetlands within the entire floodplain

The SMA also states that “the interests of all the people shall be paramount in the management of shorelines of statewide significance.” Shorelines of statewide significance are those for which there is special interest in preserving the natural characteristics and in encouraging and increasing public access.

Shorelines of Statewide Significance are defined in the SMA (RCW 90.58.030) as:

- Certain areas on the Pacific Coast, Hood Canal, and Puget Sound shorelines.
- Lakes or reservoirs with a surface acreage of 1,000 acres or more.
- Larger rivers (1,000 cubic feet per second or greater for rivers in Western Washington, 200 cubic feet per second and greater east of the Cascade crest).
- Wetlands associated with all the above.

(c) Local Shoreline Master Programs

Local jurisdictions are required to develop a Shoreline Master Program (SMP) to guide compliance with the SMA. In Washington, 205 cities and 38 counties have adopted shoreline master programs. See WAC 173-19 for a complete list of jurisdictions that have adopted SMPs.

Local SMPs are planning and regulatory documents subject to approval by Ecology. Local jurisdictions use the shorelines permitting process as the primary tool for shorelines protection.

SMPs designate shorelines according to the degree of impact by human activity. Most local jurisdictions use the standard designations recommended by Ecology, but may use additional ones. The four standard designations are: (1) urban, (2) rural, (3) natural, and (4) conservancy. Project coordinators must pay close attention to the use regulations to be followed under each designation.

Local governments may modify master programs to reflect changing local circumstances, new information, or improved shoreline management approaches. All changes to SMPs require public involvement. At a minimum, local governments must hold public hearings. Substantial revisions are usually written with help from citizen advisory committees.

SMA guidelines provide details on how local governments can achieve the level of protection required by the SMA. Current SMA requirements and guidelines can be viewed online at:

 <http://www.ecy.wa.gov/>

Click on Programs, then Shorelands and Environmental Assistance, then Shoreline Management.

Or by direct link:

 <http://www.ecy.wa.gov/programs/sea/shorelan.html>

More information on the Shoreline Management Act and local government can be accessed at:

 <http://www.mrsc.org/Subjects/Environment/shorelin.aspx>

452.03 Policy Guidance

(1) Shoreline Master Programs

City and County SMPs include policies to guide development in and adjacent to shorelands. The SMA and other laws require local governments to take into account the SMA and SMP when reviewing proposed development projects for zoning, site plan, subdivision, or other approvals. For this reason, jurisdictions may review plans for consistency with the local SMP and the SMA. Development projects may be conditioned or denied based on shoreline policy.

(2) Other Local Plans and Policies

City and county comprehensive plans and parks and recreation plans may contain policy and planning guidance on shorelines. In addition, local critical

areas plans may apply in areas where the shoreline and wetlands are hydrologically connected. These documents should be considered in preparing shorelines sections of environmental documents.

452.04 Interagency Agreements

None specific to shorelines and coastal areas. See [Appendix E](#) for a complete index to interagency agreements referenced in the EPM.

452.05 Technical Guidance

(1) WSDOT Discipline Report

WSDOT has no formal discipline report for coastal areas and shorelines.

(2) WSDOT GIS Workbench

Useful information may be obtained from the WSDOT GIS Workbench, a GIS interface for internal WSDOT users only. It has numerous layers of environmental and natural resource management data. WSDOT works with federal, state, and local agencies to maintain a collection of the best available data for statewide environmental analysis. Available data sets include major shorelines, lakes, and rivers. For information on how to access the GIS Workbench, see:

 <http://www.wsdot.wa.gov/environment/envinfo/default.htm>

For a list of current data sets, see WSDOT's web site:

 <http://www.wsdot.wa.gov/>

Click on Maps & Data, then GIS Data Distribution Catalog.

Or by direct link:

 <http://www.wsdot.wa.gov/mapsdata/geodatacatalog/default.htm>

(3) Ecology Guidance

For information on the SMA, implementing guidelines and permit information, see Ecology's web site:

 <http://www.ecy.wa.gov/>

Click on Programs, then Shorelands and Environmental Assistance, then look under Shoreline Management.

Or by direct link:

 <http://www.ecy.wa.gov/programs/sea/shorelan.html>

(4) FHWA Technical Advisory

Technical Advisory T 6640.8A (October 30, 1987) gives guidance on preparing NEPA and Section 4(f) environmental documents, including sections on coastal barriers and coastal zone impacts. If coastal zones may be impacted by a proposed project and an EIS is required, the draft EIS should: (1) identify direct and indirect impacts to the coastal zone unit(s); (2) discuss the results of early coordination with the state CZM agency or appropriate local agency and the U.S.

Fish and Wildlife Service; and (3) identify any alternative which would require an exception under the Act. For details, see FHWA's web site:

 <http://www.fhwa.dot.gov/>

Click on Legislation and Regulations, then FHWA Directives and Policy Memorandums, then FHWA Technical Advisories, then T6640.8A.

Or by direct link:

 <http://www.fhwa.dot.gov/legsregs/directives/techadvs/t664008a.htm>

(5) FHWA Environmental Guidebook

FHWA's online Environmental Guidebook contains documents on coastal barrier resources and coastal zone management. Available online at FHWA's web site:

 <http://www.fhwa.dot.gov/>

Click on FHWA Programs, then Environment, then Environmental Guidebook, then Index, then Coastal Zone Management.

Or by direct link:

 <http://environment.fhwa.dot.gov/guidebook/index.htm>

(6) Other Guidance

For coastal erosion issues, several references are available:

Washington Coastal Erosion Task Force Report (March 1, 1999), including policy recommendations. Available from Washington Office of Community Development, Growth Management.

The Southwest Washington Coastal Erosion Study has resulted in a number of publications, available from the Ecology web site:

 <http://www.ecy.wa.gov/>

Click on Programs, then Shorelands and Environmental Assistance, then SW Washington Coastal Erosion Study.

Or by direct link:

 <http://www.ecy.wa.gov/programs/sea/swce/index.html>

452.06 Permits and Approvals

Projects in coastal zones and shoreline areas may be subject to one or more of the permits listed in **Section 431.06**, Water Quality. The only permits or approvals relating specifically coastal zones and shorelines are discussed in the following sections:

State

- Section 540.03 – Coastal Zone Management Consistency Certification (from Ecology)

Local

- Section 550.02 – Shoreline Permits (from county or city)

452.07 Non-Road Project Requirements

Ferry, rail, airport, or non-motorized transport systems are generally subject to the same policies, procedures, and permits that apply to road projects.

452.08 Exhibits

None.